# CITY COUNCIL AGENDA REPORT



**MEETING DATE: JANUARY 20, 2009** 

**ITEM NO:** 

SUBJECT:

ABATEMENT OF THE PUBLIC NUISANCE CONDITIONS AT 2258 ORANGE AVENUE

(APN 426-073-27)

DATE:

**JANUARY 8, 2009** 

FROM:

**DEVELOPMENT SERVICES DEPARTMENT** 

PRESENTATION BY:

KHANH NGUYEN, BUILDING OFFICIAL

DONALD D. LAMM, DIRECTOR

FOR FURTHER INFORMATION CONTACT: KHANH NGUYEN (714) 754-5277

## **RECOMMENDATION:**

Adopt Resolution ordering the Building Official to abate public nuisance conditions at 2258 Orange Avenue pursuant to the Costa Mesa Municipal Code.

## **BACKGROUND:**

At your January 6, 2009 meeting, Council declared property conditions at 2258 Orange Avenue a public nuisance, by the adoption of Resolution 09-5 (see <u>Attachment 2</u>), and directed staff to proceed with the abatement process.

#### **Property Location:**

The property site is located on the east side of Orange Avenue between Albert Place and Cecil Place (see <u>Attachment 3</u>), and has a large open hole in the ground filled with building materials, equipment, tools, household goods, and rubbish. The site is also being used to store heavy construction equipment, a tractor, trailer, and a large recreational vehicle (see <u>Attachment 4</u>).

The Building Division has informed owner Michael P. Keeler that his building permits have expired. Mr. Keeler responded that he does not have the resources to construct a house at 2258 Orange Avenue and finish construction over the basement pit. Therefore, staff directed the owner to:

- 1. Remove all construction materials, equipment, vehicles, and household goods;
- 2. Remove the basement; and,
- 3. Restore the site to a vacant lot with required security fencing and erosion control.

To date, the owner has not complied with this directive.

# **ANALYSIS:**

Staff estimates the cost of abatement, including administrative costs, is over \$50,000. The City's administrative costs would be assessed at a time and material basis. The schedule to complete the abatement is approximately four weeks. If the owner does not grant entry to the property, staff would need to obtain a court ordered warrant which may extend the completion schedule.

# **ALTERNATIVES:**

Council could continue the public hearing to February 3, 2009, for the purpose of allowing the owner additional time to abate the public nuisance conditions. Council should still require the owner to remove the basement, all vehicles and materials, and bring the property into compliance with applicable Costa Mesa Municipal Code standards.

# **FISCAL REVIEW:**

The demolition and site clean-up cost would be initially borne by the City. However, the total cost of abatement, including the City's administrative costs, would then be subject to a collection process administered by the Finance Department. If not paid, the total cost would result in a special assessment and lien on the property's title, subject to collection on the next property tax invoice, or on transfer of title if the property is sold prior to the fall 2009 property tax bill.

#### **LEGAL REVIEW:**

The City Attorney has approved the resolution as to form.

## **CONCLUSION:**

Council's order to abate public nuisance conditions at 2258 Orange Avenue would result in the site's compliance with property maintenance and safety code standards for vacant property. In other words, the property would be cleaned up and become somewhat more tolerable to adjacent neighbors.

KHANH NGUYEN Building Official DONALD D. LAMM, AICP

Deputy City Mgr. - Dev. Svs. Director

MARC R. PUCKETT Finance Director

## Attachments:

- 1. Draft Resolution
- 2. Council Resolution No. 09-5
- 3. Vicinity Map
- 4. Site Photos

Distribution:

City Manager

**Assistant City Manager** 

City Attorney

Assistant Development Svs. Dir.

**Police Chief** 

Public Services Director Chief of Code Enforcement

**Chief of Inspection** 

City Clerk (2) Staff (4) File (2)

Mr. Michael P. Keeler 2260 Orange Avenue Costa Mesa CA 92627

File: 0120092258OrangeAve Date: 010809 Time: 9:30 a.m.

# **RESOLUTION NO. 09-**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE BUILDING OFFICIAL TO ABATE THE PUBLIC NUISANCE CONDITIONS AT 2258 ORANGE AVENUE PURSUANT TO ESTABLISHED COSTA MESA MUNICIPAL CODE PROCEDURES.

The City Council of the City of Costa Mesa does hereby resolve as follows:

WHEREAS, the City Council has previously considered information submitted by City staff concerning certain conditions extant at the property known as 2258 Orange Avenue (APN 426-073-27), Costa Mesa; and

WHEREAS, the City Council has also afforded both the property owner and nearby neighbors to be heard concerning the conditions extant at this property; and

WHEREAS, since 2005, the owner has negatively impacted the surrounding residential neighborhood with excessive noise after 8 p.m. associated with on-site construction-related activities and light and glare impacts from improperly placed security lighting, despite numerous complaints to the owner and to City staff from neighbors, and despite numerous violation notices and citations from Code Enforcement; and

WHEREAS, the large basement is 1,527 square feet in size and approximately nine-feet deep, and it is an attractive nuisance and hazard even in dry conditions, but all the more so with the recent onset of seasonal rains falling into a large hole in the ground which has no natural or man-made drainage, thus allowing water to accumulate to potentially the nine-foot depth of the basement; and, notwithstanding that it is temporarily secured by fencing, the long-term remedy is to remove the basement and fill in the remaining hole with appropriately compacted soil; and,

WHEREAS, the owner has ignored staff's direction to restore this property to a vacant lot, and it has been used as a storage yard since June 2008; and,

WHEREAS, in addition to building materials and equipment, household goods and rubbish have also accumulated on the property, which contributes further to the visual blight impacts to the surrounding neighborhood; and,

WHEREAS, the owner has indicated that he lacks the resources to complete the construction of the house and that he has no intention of performing any more work; including restoration of the property to a vacant lot;

WHEREAS, at its meeting of January 6, 2009, the City Council approved Resolution No. 09-5 declaring conditions at this property to be a public nuisance subject to abatement; and,

WHEREAS, it is both the duty and the right of the City of Costa Mesa, through its City Council, and pursuant to Chapter 1, Article 5 of the Costa Mesa Municipal Code, to take action where appropriate to cause and authorize the abatement of nuisance conditions which endanger the peace and safety of the citizens of Costa Mesa:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Costa Mesa, does hereby declares as follows:

- 1. The property has a large open basement, filled with various building materials, equipments, tools, household goods, and rubbish. The site is also being used to store a heavy construction vehicle and equipment, a tractor, a trailer, and a large recreational vehicle.
- 2. The Building Division has informed the owner that building permits have expired. The owner responded that he does not have the resources to construct the house at 2258 Orange Avenue. Staff then directed the owner to:
  - a. Remove all construction materials, equipment, vehicles, and household goods;
  - b. Remove the basement; and
  - c. Restore the site to a vacant lot with required fencing and erosion control.

To date, the owner has not complied with this directive.

- 3. Conditions at the property known as 2258 Orange Avenue, Costa Mesa, and in particular the open basement structure and the related storage and accumulation of materials, implements and vehicles on this property, constitute a nuisance within the meaning of §§ 20-3 and 20-4 of the City of Costa Mesa Municipal Code.
- 4. City staff is hereby directed to take all steps lawful and necessary to abate said nuisance conditions, and to restore this property to a safe, quiet, and orderly condition.
- 5. The total cost of abatement, including administrative costs, of these nuisance conditions is estimated to exceed \$50,000.00. The City of Costa Mesa's administrative costs will be assessed on a time and material basis. The total cost, including City administrative costs, will constitute a lien upon the property until paid. The estimated timeframe to complete the abatement is four weeks on site. However, if the owner does not grant entry to the property, staff will need to obtain a court warrant, which may extend the time frame further.
- 6. City staff is hereby further directed to report back to the City Council within 30 days of this resolution concerning the completion of such abatement or the progress toward completion of abatement, and to continue such reports each 30 days thereafter until such time as the abatement of this nuisance has been completed.

7. City staff is hereby furthermore directed to provide written notice of this Resolution to the property owner, together with written notice of his/her/their right under § 20-14(e) and Title 2, Chapter IX (Appeal, Rehearing and Review Procedure) of the City of Costa Mesa Municipal Code to request a rehearing of this determination.

PASSED AND ADOPTED this	day of January 2009.		
	Mayor of the City of Costa Mesa		
ATTEST:	APPROVED AS TO FORM		
City Clerk of the City of Costa Mesa	City Attorney		

STATE OF CALIFORNIA ) COUNTY OF ORANGE ) ss CITY OF COSTA MESA )	i.
City of Costa Mesa, hereby ce 09 was duly and regularly regular meeting thereof held on	lerk and ex-officio Clerk of the City Council of the rtify that the above and foregoing Resolution No. passed and adopted by the said City Council at a the day of January, 2009.  F, I have hereunto set my hand and affixed the
seal of the City of Costa Mesa t	his day of January, 2009.
	City Clerk and ex-officio Clerk of the City
	Council of the City of Costa Mesa

.

# **RESOLUTION NO. 09-5**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING CONDITIONS AT THE PROPERTY KNOWN AS 2258 ORANGE AVENUE, COSTA MESA, TO BE A PUBLIC NUISANCE SUBJECT TO ABATEMENT.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the City Council has considered information submitted by City staff concerning certain conditions extant at the property known as 2258 Orange Avenue (APN 426-073-27), Costa Mesa; and

WHEREAS, the City Council has also afforded both the property owner and nearby neighbors an opportunity to be heard concerning the conditions extant at this property; and

WHEREAS, since 2005, the owner has negatively impacted the surrounding residential neighborhood with excessive noise after 8 p.m. associated with on-site construction-related activities and light and glare impacts from improperly placed security lighting, despite numerous complaints to the owner and to City staff from neighbors, and despite numerous violation notices and citations from Code Enforcement; and

WHEREAS, the large basement is 9-feet deep by 40-feet wide by 40-feet long, and is an attractive nuisance and hazard even in dry conditions, but all the more so with the recent onset of seasonal rains falling into a large hole in the ground which has no natural or man-made drainage, thus allowing water to accumulate to potentially the nine-foot depth of the basement; and, notwithstanding that it is temporarily secured by fencing, the long-term remedy is to remove the basement walls and floor and fill in the remaining hole with appropriately compacted soil; and,

WHEREAS, the owner has ignored staff's direction to restore this property to a vacant lot, and it has been used as a storage yard since June 2008; and,

WHEREAS, in addition to building materials and equipment, household goods and rubbish have also accumulated on the property, which contributes further to the visual blight impacts to the surrounding neighborhood; and,

WHEREAS, the owner has indicated that he lacks the resources to complete the construction of the house and that he has no intention of performing any more work; including restoration of the site to a vacant lot; and,

WHEREAS, it is, pursuant to Chapter 1, Article 5 of the Costa Mesa Municipal Code, both the duty and the right of the City of Costa Mesa, through its City Council, to take action where appropriate to cause and authorize the abatement of nuisance conditions which endanger the peace and safety of the citizens of Costa Mesa;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Costa Mesa, does hereby declares as follows:

- Conditions at the property known as 2258 Orange Avenue, Costa Mesa, and in particular the open basement structure and the related storage and accumulation of materials, implements and vehicles on this property, constitute a nuisance within the meaning of §§ 20-3 and 20-4 of the City of Costa Mesa Municipal Code.
- 2. City staff is hereby directed to take all steps lawful and necessary to abate said nuisance conditions, and to restore this property to a safe, quiet and orderly condition.
- 3. City staff is hereby further directed to report back to the City Council within thirty (30) days of this resolution concerning the completion of such abatement or the progress toward completion of abatement, and to continue such reports each thirty (30) days thereafter until such time as the abatement of this nuisance has been completed.
- 4. City staff is hereby furthermore directed to provide written notice of this Resolution to the property owner, together with written notice of his/her/their right under § 20-14(e) and Title 2, Chapter IX (Appeal, Rehearing and Review Procedure) of the City of Costa Mesa Municipal Code to appeal this determination.

PASSED AND ADOPTED this 6th day of January, 2009.

Allan R. Mansoor, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA	)	
COUNTY OF ORANGE	)	SS
CITY OF COSTA MESA	j	

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 09-5 and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the  $6^{\text{th}}$  day of January, 2009, by the following roll call vote, to wit:

AYES:

**COUNCIL MEMBERS:** 

MANSOOR, LEECE, BEVER, FOLEY, MONAHAN

NOES:

**COUNCIL MEMBERS:** 

NONE

ABSENT:

**COUNCIL MEMBERS:** 

NONE

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this  $7^{\text{th}}$  day of January, 2009.

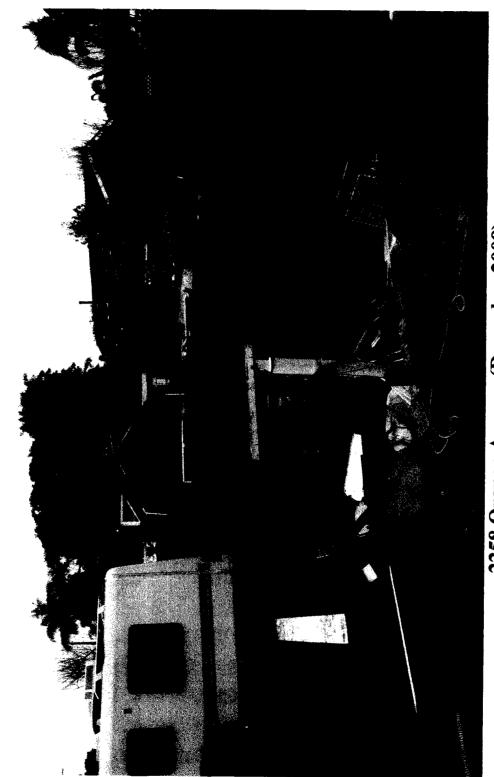
JULIE FOLCIK, CITY CLERK

(SEAL)

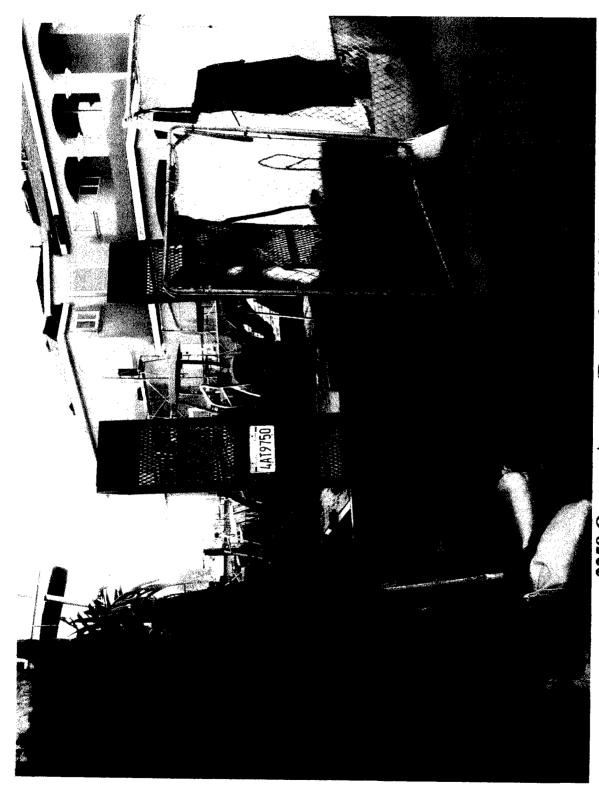




2258 Orange Ave (April 2008)
Oblique Image Courtesy of Pictometry International Corp.



2258 Orange Avenue (December 2008)



2258 Orange Avenue (December 2008)